

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 10, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF: 08HD-135

HAWAII

Approval, in Principle, of the Issuance of Direct Leases to Hamakua Biomass Energy, LLC, for a Commercial Biomass Energy Generation Facility and Hamakua Biomass Holdings, LLC, for Commercial Forestry Purposes, North Hilo, Hamakua, Hawaii, Tax Map Keys: Various

APPLICANT:

Hamakua Biomass Energy, LLC, and Hamakua Biomass Holdings, LLC, both Hawaii limited liability corporations, whose business and mailing address is 8 Kiopaa, Suite 104, Pukalani, Hawaii 96768.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of the Government lands of Hamakua situate at North Hilo, Hawaii, identified by Tax Map Key: (3) 4-1-02:6, for a commercial biomass energy generation facility, as shown on the attached map labeled Exhibit A and up to 10,500 acres to be selected for a commercial forestry operation.

AREA:

Commercial biomass energy generation facility: 63.67 acres
Commercial forestry operation: Up to 10,500 acres.

ZONING:

State Land Use District: Agricultural
County of Hawaii CZO: Agricultural

TRUST LAND STATUS:

Section 5(b) lands (ceded) of the Hawaii Admission Act.

Most of the selected lands will be DHHL 30% entitlement lands pursuant to the Hawaii State Constitution as they were formerly in sugarcane cultivation in 1978.

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Construct, operate and manage a commercial biomass energy generation facility and cultivate, manage and harvest forest products as fuel for the energy generation facility.

LEASE TERM:

Fifty (50) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

Fair market annual rent fixed for the first thirty (30) years with 33% rent step-up every tenth year, plus percentage rent as may be applicable, to be determined by staff or independent appraiser, subject to review and approval by the Chairperson.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

On the day after the thirtieth (30th) year of the term to be determined by staff or independent appraisal.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Applicant shall prepare an environmental assessment covering the 63.67-acre site of the commercial biomass renewable energy generation facility.

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the Applicant's commercial forestry operation is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that exempts "Operations, repairs, or maintenance of existing structures, facilities, equipment or topological features involving negligible, or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION: Hamakua Biomass Energy/Hamakua Biomass Holdings

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Select up to 10,500 acres of State lands for a commercial forestry operation, subject to confirmation and concurrence by the Department that the lands selected are not otherwise encumbered for other use and will be available on the commencement date of the applicable leases contemplated herein.
2. Conduct its due diligence and obtain necessary entitlements and permits including compliance with Chapter 343, Hawaii Revised Statutes, as amended.
3. Negotiate and enter into a Power Purchase Agreement with Hawaii Electric Light Company.
4. Secure project financing commitments.
5. Pay for an appraisal to determine initial rent (if applicable).
6. Where necessary process and obtain subdivision approval from the County of Hawaii at Applicant's own cost.
7. Where necessary provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The State-owned 63.67-acre parcel being proposed as the site for the biomass energy generation facility is located at Maonakomalie and Kaapahu, Hamakua, North Hilo. The site is bordered to the east and north by a 200-acre parcel owned by Kamehameha Schools/Bishop Estate (KS/BE), which is planted in eucalyptus. The parcel was previously leased to Laupahoehoe Sugar Company for sugarcane cultivation. Since 1987 the parcel has been fallow and unencumbered.

The 2008 legislature passed Act 145, which amended Chapter 205, Hawaii Revised Statutes, as amended, to include agricultural-energy facilities as a permitted use within the State Land Use Agricultural District.

The commercial forestry operation on up to 10,500 acres of State-owned lands will include the cultivation, management and harvesting of eucalyptus trees. The harvested trees will be used to fuel the biomass energy generation facility. The facility will use a low emission Circulating Fluidized Boiler and supporting equipment to produce up to 30 megawatts of electrical power.

Previously, the 2002 legislature passed Act 102, which amended Section 171-95, Hawaii Revised Statutes, as amended, by including commercial renewable energy producers as being eligible for directly

issued leases by the Board. Prior to the passage of Act 102 the public auction process was the only means available to a renewable energy producer to obtain a lease from the State. Without reasonable assurance of being issued a lease potential renewable energy producers were reluctant to spend the time and money to conduct due diligence and secure required permits.

The 2008 legislature also passed Act 90, which further amended Section 171-95 by expanding the definition of a renewable energy producer to include any grower or producer of organic materials used primarily for the production of other fuels and/or electrical energy.

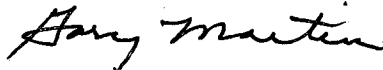
Hamakua Biomass Holdings, LLC, is also in discussions with KS/BE to possibly lease up to 13,000 acres of mature trees owned by KS/BE on the Big Island. A commitment by KS/BE and the Board's approval of the Applicant's request to locate a biomass energy generation facility on State land and cultivate, manage and harvest eucalyptus trees on up to 10,500 acres of State lands formerly cultivated with sugarcane could help the Applicant secure project financing commitments during this time of uncertainty in the financial markets.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

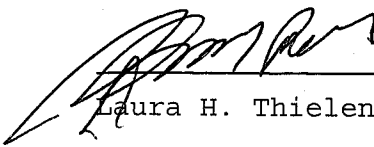
That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above, approve in principle the issuance of a direct lease to Hamakua Biomass Energy, LLC, covering the State-owned 63.67-acre parcel for a commercial biomass energy generation facility and Hamakua Biomass Holdings, LLC, covering up to 10,500 acres of State-owned lands for a commercial forestry operation with the understanding that the approval in principle shall not be deemed to be an approval of a lease as staff shall return to the Board at a later date for approval of the lease disclosing the negotiated terms and conditions.


Respectfully Submitted,



Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

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APPENDIX C
SUBJECT:

*Dropped parcels: 13, 5, 3, 17,
14, 5,*

THIRD	DIVISION	
ZONE	SEC.	PLAT
4	1	02
CONTAINING / PARCELS		
SCALE: 1 in. = 300 ft.		

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EXHIBIT " A "